IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTH DAY OF DECEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

AND
THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

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WRIT PETITION Nos.11430, 11431, 11432,

11433, 22648 AND 24006 OF 2004

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WRIT PETITION Nos.11430 OF 2004

Between:

I.Narhari, S/o.late Sri Nageshwara Rao,

Aged 48 years, Occu: Secretary Grade-I,

Agriculture Market Committee,

Mylavaram, Krishna District.

..... PETITIONER

AND

The Commissioner and Director of Marketing

Government of Andhra Pradesh,

B.R.K.R. Bhawan, Tank Bund,

Hyderabad and another.

....RESPONDENTS

WRIT PETITION Nos.11431 OF 2004

Between:

I.Narhari, S/o.late Sri Nageshwara Rao,

Aged 48 years, Occu: Secretary Grade-I,

Agriculture Market Committee,

Mylavaram, Krishna District.

..... PETITIONER

AND

The Commissioner and Director of Marketing

Department, Government of Andhra Pradesh,

Hyderabad and others.

....RESPONDENTS

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WRIT PETITION Nos.11432 OF 2004

Between:

I.Narhari, S/o.late Sri Nageshwara Rao,

Aged 48 years, Occu: Secretary Grade-I,

Agriculture Market Committee,

Mylavaram, Krishna District.

..... PETITIONER

AND

The Commissioner and Director of Marketing

Government of Andhra Pradesh,

B.R.K.R. Bhawan, Tank Bund Road,

Hyderabad and another.

....RESPONDENTS

WRIT PETITION Nos.11433 OF 2004

Between:

I.Narhari, S/o.late Sri Nageshwara Rao,

Aged 48 years, Occu: Secretary Grade-I,

Agriculture Market Committee,

Mylavaram, Krishna District.

..... PETITIONER

AND

The Director of Marketing

Government of Andhra Pradesh,

Hyderabad and others.

....RESPONDENTS

WRIT PETITION Nos.22648 OF 2004

Between:

The Commissioner & Director of Marketing

Government of Andhra Pradesh,

B.R.K.R.Bhavan, Tankbund Road,

Hyderabad.

..... PETITIONER

AND

Sri V.Sambasiva Rao, Asst. Secretary,

Agricultural Market Committee,

Nuzvid, Krishna District, and another.

....RESPONDENTS

WRIT PETITION Nos.24006 OF 2004

Between:

The Commissioner & Director of Marketing

Government of Andhra Pradesh,

B.R.K.R.Bhavan, Tankbund Road,

Hyderabad.

..... PETITIONER

AND

K.S.Prakash Rao, Asst. Secretary,

Agricultural Market Committee,

Anakapalli, Visakhapatnam Dist.

And another.

....RESPONDENTS

THE HON'BLE MR JUSTICE

J.CHELAMESWAR

AND
THE HON'BLE MR JUSTICE

RAMESH RANGANATHAN

WRIT PETITION Nos.11430, 11431, 11432,

11433, 22648 AND 24006 OF 2004

C O M M O N O R D E R

(Per Sri Justice J.Chelameswar)

All these writ petitions have been filed aggrieved by the common order in O.A.Nos.6114 of 1999, 285 of 1997, 7565 of 1996 and 2839 of 1997, dated 08.04.2004 of the A.P. Administrative Tribunal and hence, they are being decided by this common order.

Writ Petition Nos.11430, 11431, 11432 and 11433 of 2004 have been filed by the contesting respondent, Mr.I.Narhari, in the above-mentioned O.As and Writ Petition Nos.22648 and 24006 of 2004 have been filed by the official respondent-Commissioner and Director of Marketing, challenging the same common order.

Writ Petition No.11431 of 2004 is filed with a prayer as follows:

> **"to issue an appropriate writ, order or direction more particularly one in the nature of writ of certiorari by declaring that the orders passed by the Hon'ble Tribunal in O.A.No.2839 of 1997 and batch dated 8-4-2004 as wholly arbitrary, illegal, unconstitutional and consequently declare that the impugned order passed by the respondent No.1 dated 5-12-1996 as wholly legal and valid and direct the respondents to grant the petitioner all consequential benefits including fixation of seniority, promotion, arrears of salary, increments, etc., based on the said notional seniority**

treating the petitioner's appointment as Supervisor w.e.f. 1-8-1975 in the interest of justice and pass ……"

The petitioner-I.Narahari was one of the respondents in four Original Applications brought before the A.P. Administrative Tribunal. All the above-mentioned O.As were filed questioning the final seniority list of Secretaries of the Market Committees, wherein the petitioner-I.Narahari was shown to be senior to all the applicants in the above-mentioned O.As.

The Andhra Pradesh (Agricultural Produce & Livestock) Markets Act, 1966 (for short 'the Act') contemplates the establishment of Market Committees in various parts of the State for each 'notified area' to perform the various functions entrusted to such Market Committees under the Act. Under Rule 31 of the Andhra Pradesh (Agricultural Produce & Livestock) Markets Rules, 1969 (for short 'the Rules') framed under the Act, the Secretary of the Market Committee shall be the Executive Officer of the Committee. In view of the establishment of a number of Market Committees in the State, separate Service Rules for all the Secretaries of the various Market Committees have been framed under Rule 157 of the Rules. Two classes of Secretaries, namely, Class I and Class II have been enumerated thereunder.

The petitioner-Mr.I.Narahari was appointed as L.D.C. by proceedings dated 27.09.1974 by the Market Committee of Vijayawada. He joined in service on 01.10.1974. The petitioner-I.Narhari is physically challenged person. It appears that in the recruitment of Supervisors that took place in the year 1974 in the Vijayawada Market Committee, one post was reserved for physically challenged person. After joining in the service, the petitioner-I.Narahari after a lapse of one and half years, preferred an appeal before the Director of Marketing, complaining that he ought to have been appointed as Supervisor in the vacancy ear-marked for physically challenged person. The said appeal was allowed. The petitioner was appointed as Supervisor of the above-mentioned Market Committee.

Mr.V.Sambasiva Rao who was working as a Supervisor till then and recruited in the year 1974 along with the petitioner-I.Narahari were reverted to the post of L.D.C. Aggrieved thereby, Mr.V.Sambasiva Rao challenged the decision of the

Director of Marketing before the erstwhile Administrative Tribunal by way of R.P.No.822 of 1978. The said R.P. was allowed and V.Sambasiva Rao continued to work as Supervisor.

On 05.12.1996 the Director of Marketing - 1st respondent issued the proceedings impugned in various Original Applications before the A.P. Administrative Tribunal, out of which the present set of writ petitions arise. By the said proceedings, it was declared that the petitioner-I.Narahari be treated as having been appointed as a Supervisor in the Agricultural Market Committee, Vijayawada and his seniority therefore has to be reckoned as Supervisor from the date of his initial appointment i.e., 01.08.1975 on notional basis. The above proceedings came to be issued pursuant to his representation dated 15.02.1996. The applicants in various O.As complained that by virtue of the impugned proceedings, the petitioner-I.Narahari would steal a march over the applicants in various O.As in respect of seniority in the cadre of Secretaries to the Market Committees.

The Tribunal allowed all the four Original Applications mainly on the ground that the impugned proceedings, if at all, are traceable to the power of 1st respondent under Section 27 of the Act and such a power could not have been exercised after a lapse of nearly 25 years and any statutory power should be exercised within a reasonable period from the date on which the necessity for exercise of such power arises. Apart from that, the Tribunal also held that the decision taken by the Director to revert V.Sambasiva Rao who was appointed along with the petitioner –I.Narahari from the post of Supervisor to L.D.C. and appoint the petitioner-I.Narahari as Supervisor in the year 1978 stood reversed by the A.P.Administrative Tribunal in R.P.No.822 of 1978, and therefore, the present impugned proceedings would be contrary to a judicial decision regarding the same issue. Consequently, the Tribunal set aside the impugned proceedings and hence, the present writ petitions challenge the common order passed in the above-mentioned O.As by the Tribunal.

We accept the reasons given by the Tribunal for allowing the various Original Applications and we do not see any reason warranting interference with the conclusions reached by the Tribunal. The above narrated facts amply demonstrate the correctness of the decision reached by the Tribunal.

However, learned counsel for the petitioner Sri M.V.Durga Prasad submitted that the decision of the A.P. Administrative Tribunal is without jurisdiction on the ground that the dispute of seniority between the petitioner-I.Narahari and various applicants in the above-mentioned applications is not amenable to the jurisdiction of the A.P. Administrative Tribunal.

Learned counsel further submitted that all the aggrieved persons are employees of a statutory body and that they are not civil servants amenable to the jurisdiction of the Tribunal. Section 15 of the Administrative Tribunals Act, 1985 (for short 'the Act of 1985) deals with the jurisdiction of the A.P. State Administrative Tribunal. Admittedly, none of the contesting parties is a civil servant or in the employment of the State of A.P. However, the jurisdiction of the Tribunal under Section 15 of the Act of 1985 is not confined only to the service disputes of the civil servants of the State of A.P. Section 15(2) of the Act of 1985 enables the State Government, by a notification to confer jurisdiction on the Administrative Tribunals constituted under Section 15 of the Act of 1985 with regard to the service disputes of the employees of local or other authorities and corporations controlled or owned by the State Government. Sub-Sections – 2 and 3 reads as follows:

> **"(2) The State Government may, by notification, apply with effect from such datee as may be specified in the notification of sub-section (3) to local or other authorities and corporations (or Societies) controlled or owned by the State Government.**
>
> **Provided that if the State Government considers it expedient so to do for the purpose of facilitating transition to the scheme as envisaged by this Act different dates may be so specified under this sub-section in respect of different classes of, or different categories under any class of, local or other authorities or corporations, or Societies.**
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> **(3) Save as otherwise expressly provided in this Act, the Administrative Tribunal for a State shall also exercise, on and from the date with effect from which the provisions of this sub-section apply to any local or other authority or corporation, (or Society) all the jurisdiction, powers and authority exercisable immediately before the date by all courts (except the Supreme Court in relation to ---**
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> **(a) recruitment, and matters concerning recruitment, to any service or post in connection with the affairs of such local or other authority or**

**corporation;
(or Society) and**

b. **all service matters concerning a person (other than a person referred to in clause (b) of sub-section (1) of this Section or a member, person or civilian referred to in clause (b) of sub-section (1) of Section 4 appointed to any service or post in connection with the affairs of such local or other authority or corporation (or Society) and pertaining to the service of such person in connection with such affairs.**

The Government of A.P. in G.O.Ms.No.652, dated 11.11.1989 notified that the Administrative Tribunal shall have the jurisdiction to resolve the disputes of the employees of the local authorities under the control of the State Government.

Learned Counsel for the petitioner however argued that a market committee constituted under the Market Committees Act is not a 'local authority' within the meaning of the said expression occurring in Section 15(3) of the Act of 1985. In our view, the issue is no more res integra. The question whether the Agricultural Market Committee is a 'local authority' within the meaning of Section 3(31) of the General Clauses Act, 1897 fell for consideration of the Division Bench of this Court reported in BUDHA VEERINAIDU V/s. THE STATE OF A.P. REP. BY ITS SECRETARY FOOD AND AGRICULTURAL DEPT., HYDERABAD. The question arose under the Land Acquisition Act when certain lands were sought to be acquired for the benefit of the Market Committee. The question before the Division Bench was whether a Market Committee was a 'Company' or the 'local authority' under the Land Acquisition Act as the procedure for acquisition would vary depending upon the answer to the question. As the expression 'local authority' was not defined under the Land Acquisition Act, their Lordships necessarily had to fall back on the definition of the expression 'local authority' as defined under Section 3(31) of the General Clauses Act and came to the conclusion that the Market Committee constituted under the Act is a local authority.

Even under the Administrative Tribunals Act, the expression 'local authority' is not defined. Therefore, necessarily we must refer to the expression 'local authority' as defined under the General Clauses Act. At this stage, learned counsel for the petitioner relied upon a Judgment of the Supreme Court reported in UNION OF INDIA V/s. R.C.JAIN, wherein their Lordships considered the attributes of a 'local authority'.

In para 2 of the Judgment their Lordships held as follows:

> **"2. Let us, therefore, concentrate and confine our attention and enquiry to the definition of 'Local Authority' in Section 3(31) of the General Clauses Act. A proper and careful scrutiny of the language of Section 3(31) suggests that an authority, in order to be a local Authority, must be of like nature and character as a Municipal Committee, District Board or Body of Port Commissioners, possessing, therefore, many, if not all, of the distinctive attributes and characteristics of a Municipal Committee, District Board, or Body of Port Commissioners, but, possessing one essential feature, namely, that it is legally entitled to or entrusted by the Government with, the control and management of a municipal or local fund. What then are the distinctive attributes and characteristics, all or many of which a Municipal Committee, District Board or Body of Port Commissioners shares with any other local authority? First, the authorities must have separate legal existence as Corporate bodies. They must not be mere Governmental agencies but must be legally independent entities. Next, they must function in a defined area and must ordinarily, wholly or partly, directly or indirectly, be elected by the inhabitants of the area. Next, they must enjoy a certain degree of autonomy, with freedom to decide for themselves questions of policy affecting the area administered by them. The autonomy may not be complete and the degree of the dependence may vary considerably but, an appreciable measure of autonomy there must be. Next, they must be entrusted by Statute with such Governmental functions and duties as are usually entrusted to municipal bodies, such as those connected with providing amenities to the inhabitants of the locality, like health and education services, water and sewerage, town planning and development, roads, markets, transportation, social welfare services etc. etc. Broadly we may say that they may be entrusted with the performance of civic duties and functions which would otherwise be Governmental duties and functions. Finally, they must have the power to raise funds for the furtherance of their activities and the fulfillment of their projects by levying taxes, rates, charges, or fees. This may be in addition to moneys provided by Government or obtained by borrowing or otherwise. What is essential is that control or management of the fund must vest in the authority.**

On a careful examination and analysis of the above extract, the following indicia emerges:

1. **A body to be called a 'local authority' must have a separate entity, and independent legal existence;**

2. **It must function within the defined area;**

3. **Such a body shall ordinarily consist of either wholly or partly elected representatives of the inhabitants of the area;**

4. **The body must enjoy certain degree of autonomy;**

5. **The body must be entrusted with the task and performance of civic duties and functions; and**

6. **The body must have the power to raise funds for the furtherance of their objectives for which it is established and must have control over the management of such funds;**

Learned counsel for the petitioner pointed out that Market Committees totally comprise of members who are nominated by the State and the element of election is absent in the composition of the members of Market Committee. We must point out that the Supreme Court never laid down any principle that a body qualified to be called a 'local authority', must necessarily be always an elected body. The Supreme Court cautiously laid down that ordinarily such a body must comprise of elected members. Therefore, we do not see any mandatory requirement that 'local authority' must necessarily comprise of elected representatives. The other attributes pointed out by the Supreme Court in the context of 'local authority', in our view, are fully satisfied in the case of Market Committees established under the Act. We, therefore, do not see any substance in the objection raised in regard to lack of jurisdiction on the part of the Administrative Tribunal.

Coming to the Writ Petitions filed by the Commissioner and Director of Marketing, we must place on record that we are not able to appreciate the course of action taken by the Commissioner. As a matter of course, the Commissioner chose to exercise the revisionary powers under Section 27 of the Act after lapse of quarter of a century. The worse part is that he is acting as a quasi-judicial authority under Section 27 of the Act. We do not see any justification on the part of the Commissioner and Director of Marketing to challenge the correctness of the decision of the A.P. Administrative Tribunal. It is for the parties affected by such decision, to challenge the same, if they so choose. But, the Commissioner cannot be said to be a person aggrieved or affected by the decision of the Administrative Tribunal.

The writ petitions are dismissed at the stage of admission itself. No costs.

J.CHELAMESWAR,J

RAMESH RANGANATHAN,J

8TH DECEMBER, 2005

PGS

THE HON'BLE MR JUSTICE

J.CHELAMESWAR

AND
THE HON'BLE MR JUSTICE

RAMESH RANGANATHAN

WRIT PETITION Nos.11430, 11431, 11432,

11433, 22648 AND 24006 OF 2004

(Per Sri Justice J.Chelameswar)

8TH DECEMBER, 2005